IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.7610 M OF 2005

DATE OF DECISION: NOVEMBER 28, 2006

Naresh Puri and others

.....Petitioners

VERSUS

State of Haryana and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Mr. H. S. Bhullar, Advocate,
for the petitioners.

Mr. Vikas Chaudhary, AAG, Haryana,
for the State.

Mr. K. K. Aggarwal, Sr.Advocate with
Mr. Kapil Aggarwal, Advocate,
for respondent No.2.

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RANJIT SINGH, J.

This marriage ultimately got into real trouble after 10 years of not very smooth existence. As is usual routine, FIR with the allegation of dowry demand and ill-treatment followed. Petitioners, who are husband, mother-in-law

and brother-in-law (husband of the sister-in-law of complainant) have approached this Court seeking quashing of FIR No.351 dated 29.6.2004 registered against them under Sections 406, 498A, 120-B IPC at the instance of the wife Dipika.

Naresh Puri, Petitioner No.1 and Dipika, respondent No.2 got married on 1.12.1995. They lived together till May 2004 and had school going children. It is alleged that on 16.5.2004, respondent No.2 suddenly left the matrimonial house and in this regard DDR No.52 was lodged by petitioner No.1, her husband. On 29.5.2004, petitioner No.1 allegedly hired a truck and despatched all the belongings of respondent-wife to Yamunanagar, her parental house. On 3.6.2004, petitioner No.1-husband had filed a complaint against the wife containing some very uncomfortable allegations. Petitioner No.1, husband has alleged that his wife developed illicit relations with one Sub Inspector Jaspal Singh of Chandigarh Police. The Sub Inspector was on visiting terms with petitioner No.1 being his school friend. On 29.6.2004, the impugned FIR was got registered by respondent-wife through the Court of Magistrate at Yamunanagar. Petitioner No.1-husband, however, had filed a detailed representation to the Senior Superintendent of Police, Chandigarh, on 3.6.2004, revealing the mis-conduct on the part of Sub Inspector, Jaspal Singh. As per the allegation, friendship between petitioner No.1 and Jaspal Singh gave opportunity to Jaspal Singh to come close to his wife, leading this relationship and resultant separation between the couple. This relationship being unacceptable to his old mother, aged 70 years, was objected to by her as well as by the petitioner-husband. Police Inspector has been accused of advancing

threats to the petitioner and his family. It is in these circumstances that respondent No.2-wife allegedly left her matrimonial home. Petitioner No.1, on the basis of these allegations, has also sought a divorce from his wife, which is pending adjudication in the Court of Additional District Judge, Chandigarh. Claiming that the petitioners are rather the victims and that these peculiar facts would not reveal any offence under Sections 498-A and 406, the prayer for quashing of the FIR is made through the instant petition.

Petitioner No.3, who is son-in-law of petitioner No.2 and, obviously being remotely connected with the entire matrimonial discord has prayed for quashing of these proceedings against him on the ground that there would hardly be a scope of his involvement in the case atleast.

Notice of motion in this case was issued and reply has been filed.

On the other hand, the respondent-wife says that she was turned out of the matrimonial house and has denied the return of articles as pleaded in the petition. She has also expressed ignorance about lodging of DDR by the husband-petitioner No.1 being not in her knowledge. She has rather stressed that she was tortured and harassed for the sake of dowry and hence, has lodged the FIR against the petitioners. While replying to the averments in Para 4 relating to petitioner No.3, it has been mentioned that he had been instigating and interfering in the family affairs of respondent-wife. Interestingly, respondent No.2 has claimed that she is not knowing if petitioner No.3 was staying at Mohali, though he is closely related to the family. It can, thus, be seen that his name

apparently has been involved without any role. He, otherwise also, is brother-in-law of the husband. Petitioner No.3 is being blamed without raising any allegation against his wife, who is sister-in-law of the complainant. The allegations made against petitioner No.3 are also only of instigating petitioner Nos.1 and 2. It appears that he has just been roped in this case being related to husband of the complainant. No offence under Sections 498-A, 406, 120-B IPC as such, is made out against petitioner No.3. The proceedings against him thus, deserves to be quashed.

Petitioner No.2 is stated to be 70 years old. She is a widowed lady in receipt of family pension as her late husband was in Government service. She, as such, may not really be dependent on her son. Very serious allegation has been made by the husband-petitioner and he has sought divorce as well on that basis. These aspects can not be gone into while deciding this petition. The matrimonial court would go into these issues. Prayer in the present petition is for quashing the impugned FIR. The parameters for quashing of FIR are by now well settled. The case made out by the petitioners is that the FIR is a counter-blast to the action taken by the petitioner-husband to the serious mis-conduct allegedly committed by the wife. As per the petitioners, respondent-wife had herself deserted the matrimonial home and can not now be permitted to turn around and make allegation of cruelty etc. As per petitioner No.1, husband, the offence under Section 406 would not be made out as all the articles had been sent by him to the house of the respondent-wife. Admittedly, the allegations and counter-allegations would reveal that these are disputed questions required to establish before court of

law. The question required to be seen is if other relations of this estranged couple are also to suffer the effect of this matrimonial discord. They should suffer if some specific allegations are standing against them As already noticed, petitioner No.3 is the brother-in-law of the complainant and is accused of instigation only. He seems to be suffering the heat of this matrimonial dispute between the husband and wife only because of being related to the husband. There being no specific allegation against him, continuing criminal proceedings against him, would be an abuse of process of Court. Generally, mother-in-law is a most maligned relation and is always roped in matrimonial disputes. In majority of cases, it may not be without reasons. Still each case is to be seen in its own facts. A 70 years old lady, having her independent income, seeing the matrimonial home of her son crumbling, may not wish to do something to invite trouble. The background in which the allegations have been made by the husband and divorce petition filed would show that this is not an ordinary case of usual matrimonial discord where wife alone is victim. Husband and wife should fight it out in the courts to prove their respective cases. This old and infirm lady should be allowed to rest in peace. Specific allegations are against the husband, petitioner No.1 and he can not escape the consequences but his old mother being mother-in-law of complainant needs to be spared of the wrath of these proceedings.

Accordingly, the petition qua petitioner Nos.2 and 3, Usha @ Sukhvarsha and Rakesh is allowed, and FIR No.351 dated 29.6.2004 under Sections 406, 498A, 120-B IPC, registered at Police Station Yamunanagar City, Annexure P-1 and other subsequent

proceedings thereto are ordered to be quashed qua them. This petition, qua petitioner No.1, Naresh Puri, however is dismissed and the proceedings shall continue against him. Any observation made herein before shall not be construed as an expression of any opinion on the merits of the respective cases of the parties as it is for the purpose of disposing of this petition only.

November 28, 2006 **(RANJIT SINGH)**
khurmi **JUDGE**